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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,148	02/24/2004	Kenneth R. Cooper	618-1185-999	8151
20583	7590	08/23/2005	EXAMINER	
JONES DAY			WALCZAK, DAVID J	
222 EAST 41ST ST.			ART UNIT	
NEW YORK, NY 10017			PAPER NUMBER	

3751

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Taka

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/785,148	COOPER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David J. Walczak	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of flexible protrusions/ribs (claims 1, 11 and 14 must be shown or the feature canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherry et al. (hereinafter Cherry) in view of Schwartz et al. (hereinafter Schwartz). In regard to claims 1 and 14, Cherry discloses an elastomeric gripping element configured to fit over a gripping section of an article comprised of a cylindrical member 12 having inner and outer surfaces and a plurality of intercalated elevated sections 18, 19 extending from the outer surface. Although the elevated sections are not shown to be crossed or hexagonal shapes, the reference does disclose that the elevated sections can be of any design, without effecting the overall operation of the device (see column 3, lines 55-60). Accordingly, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made that the elevated sections can be designed as crossed or hexagonal shapes without effecting the overall operation of the device. Although the Cherry device does not disclose ribs on the inner surface thereof, attention is directed to the Schwartz reference, which discloses another grip for a writing instrument wherein the inner surface includes a plurality of ribs 13 (which are capable of resiliently conforming to the gripping section of the writing instrument) protruding therefrom in order to facilitate the placement of the grip. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such ribs on the inner surface of the Cherry

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device in order to facilitate the placement of the grip over the writing instrument. In regard to claims 2, 3, 7 and 8, although the Cherry reference does not disclose the height of the elevated sections or the hardness of the grip, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made that the elevated sections could be designed to have any suitable height and that the material can have any suitable hardness, without effecting the overall operation of the device, especially since the Applicant has not indicated that these values are critical to the operation of the device. In regard to claims 4-6, the grip is formed from a resilient, "anti-slip" thermoplastic elastomer (see column 3, lines 33-35, note that polymeric material is considered to be a thermoplastic elastomer). In regard to claim 9, depending on the particle size, the elevated sections are spaced as claimed. In regard to claim 10, the elevated sections are shown to have a smooth outer surface. In regard to claim 11, the Cherry device also includes a conical section (not numbered) at the front end thereof which converges toward the writing nib (see Figure 3). In regard to claim 12, the conical section and cylindrical section are made from the same material.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Klodt and Hoyle references are cited for disclosing other grips having internal ribs thereon.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Walczak  
Primary Examiner  
Art Unit 3751

DJW  
8/20/05